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WILLIAM H MEISE
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OFFICE OF PETITIONS

In re Patent No. 5,968,067 :
Issued: 10/19/1999 :
Application No. 09/123,277 : ON PETITION
Filed: 07/28/2008 :
For: SURGICAL PENILE DILATOR :
INSTRUMENT AND METHOD FOR ITS :
USE :

This is a decision on the paper styled as a petition under 37 CFR 1.137(a) filed on December 15, 2011.

The petition is **DISMISSED as moot.**

At the outset, the petition is not properly signed. The inventive entity for the subject patent is Michael Mooreville and Sorin Adrian. The subject petition, however, is signed only by inventor Mooreville. 37 CFR 1.33(b) states, in pertinent part, that amendments and other papers filed in an application must be signed by all of the applicants for patent or a registered patent practitioner. Any future petitions or other papers filed in this patent must be signed in accordance with 37 CFR 1.33(b).

37 CFR 1.137(a) states, in pertinent part, that if the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application.

The subject application for patent issued as U.S. Patent No. 5,968,067 on October 19, 1999. As the application has issued as a patent, the application is no longer pending and cannot be revived. A petition under 37 CFR 1.137(a) cannot be decided on the merits in an application that has issued as a patent. The petition is therefore dismissed as moot.

Under the circumstances of this case, petitioners may wish to consider the filing of a petition under 37 CFR 1.378(b) to accept an unavoidably delayed maintenance fee. The petition must be accompanied by the 11 ½ year maintenance fee, currently \$2,365.00 for a small entity, and the surcharge under 37 CFR 1.20(i)(1) of 700.00. The \$270.00 paid on December 15, 2011 may be applied to

the maintenance fee and surcharge, leaving a balance due of \$2,795.00 (2,365.00 + 700.00 - 270.00).

Patentees are advised to use the attached form in completing a petition under 37 CFR 1.378(b).

It is further noted that the address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address (copy enclosed) should be filed if the correspondence address needs to be updated.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: DR. MICHAEL MOOREVILLE
272 N. LANSLOWNE AV
LANSLOWNE PA 19050

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